

City of Spokane Office of Police Ombudsman Commission (OPOC)

Regular Meeting Minutes May 3, 2016

Commissioner Conklin called the meeting to order at 5:30pm. She thanked City Cable 5 for being here to record us. Commissioners A.J. VanderPol, Ladd Smith, Jenny Rose, and Scott Richter were present.

Smith moved to approve the minutes for April 5th. Rose seconded. Motion passed unanimously.

Conklin said the minutes for ordinance special meeting were pretty extensive, so she suggested approving them next month after everyone has a chance to read them closely.

Smith attended the second week of the Spokane Citizen's Academy last Wednesday (4/27), and will attend the third week tomorrow (5/4). He said it has given him a keener understanding of why officers do what they do.

Conklin requested that OPO staff a booth next year at the Earth Day celebration.

Conklin and Rose plan to attend the NACOLE conference in September. Smith would like to attend 2 days.

Smith attended the Police Advisory Committee meeting. Conklin attended the Homeless Coalition meeting on 4/7, the Community Assembly on 4/7, the Holmes Elementary Professional Learning Team Community Forum on 4/11, the Community Forum on Sheriff Oversight on 4/12, the Spokane Police Accountability Reform Steering Committee on 4/15, the PSC meeting with Bart on 4/18, the East Central Council meeting on 4/19, and the Center for Justice Lunchbox on 4/27. She was the keynote speaker on 5/2 at Law Day when 110 people took the oath of citizenship.

Dave Plemmons spoke about what an independent Police Ombudsman should be (see attached document).

Phil Janzen spoke: Thank you for the opportunity to approach. I am a recent returnee to Spokane, having spent the last 34 years in military service. I tell you that not to impress you, but to lend credibility to my comments. I can assure everyone in the room that what is screamed for all across country is leadership. Leadership that inspires change and motivates positive solutions, that's physically and morally courageous, rooted in humility and respect for all parties involved. You can find a lot of people to execute tasks, but you need someone in the Ombudsman's office with strategic vision and leadership.

I ardently propose support for Bart Logue to continue on a permanent basis. He competed against a number of candidates to get the interim position. People thought highly enough of him to select him for that job. His professional background more than qualifies him for this

role. His success as a Marine officer speaks highly of his character. His experience as Provost Marshall shows he's been able to work not only with his military, but with civil law enforcement and authorities off-base. He's done that successfully, because the next job after that he was selected to be a military diplomat in one of most dangerous and complex environments in the world, and that's the middle east. He was able to forge relationships and develop cooperation in that environment. I would suggest that because of his recent success in the job and all the accounts in the paper, he's taken this thing by the horns with a more strategic view. How can I mend relationships in the community? How can I effect change? How can I provide more strategic vision? I think that is what you really want.

And while I understand there is a hiring practice and possibly a requirement to review 3 candidates, I also know in a case like this where there is a gentleman already serving in the position to a satisfactory degree in my opinion, there are ways to change the Ordinance to provide him a permanent position and that's what I would hope you would consider for Bart. Thank you for this forum and the opportunity to speak.

Allen McDowell talked about medical detainment and police responsibilities.

Ombudsman's Report from Bart Logue: In April, we had 55 citizen contacts for the month to push us up to 178 total since I arrived. Interviews went down this month; we only had 2 in-person interviews. We did bring in 3 formal complaints. We attended 6 IA interviews for a total of 10. This month was more about working on the backlog and the current cases. One of the cases in the backlog, that we declined to certify, is upwards of 40 plus hours we've spent on that single case. If I expect the Police Department to be thorough, we're doing our best to be thorough as well.

We had a successful mediation last month. I certified 11 cases, and returned 9 for additional investigation. We referred 2 incoming complaints to other agencies. Out of 25 certified cases, 12 are from the backlog, and 13 are current.

This month has been about friction. Some good, some bad. All of it is going to help us move forward. Some of the biggest friction had to do with body cameras. Some of the pushback from IA was regarding our access to body camera footage. The way I read the Ordinance, the OPO will have access to investigative files. That doesn't stand for Ombudsman, but the Office of the Ombudsman.

When I look at the request for independent investigation, when I take these on, it's going to require a change in office structure and manpower. In our visit last week, every single office hired contractors to provide independent investigations. I wrote a very formal letter to Major Lundgren and asked him to be involved, which worked out well. We had a meeting at the police station and threw it on the table. We now have a solution that more than a single person can have access to that body camera footage. I'll let you know when that kicks off.

We found a new intern from Gonzaga Law, she'll work 10 hours a week starting May 16.

We had 1 critical incident in April, and had 2 since then. On two I received phone briefings and for yesterday's incident I spent numerous hours on scene.

We took a 2 day trip last week which was powerful. We flew to Eugene, Oregon to visit their Police Auditor, then moved to Portland to visit the Office of Independent Police Review, then the next day to Seattle to talk with the Office of Professional Accountability and their Police Auditor. And in the afternoon, we squeezed in a meeting Kathryn Olson who used to hold the Director position in Seattle, and is past President of NACOLE.

To Dave, thank you for your comments. Since our last meeting I've been thinking about independence and what does that mean. You just gave me something else to think about today: independent information. I've got a list about the difference between perceived independence and real independence:

- Are we separate from the PD?
- Who sets our budget?
- Who reviews our work?
- Who hires and fires me?
- Can I report to the press on my work independently?
- Is my budget independent and can I propose it on my own?
- Do I have operational authority?
- Can anyone intercede in what I'm doing?

I really want to get to where we want to get to.

There are 3 things we can tweak immediately. Eugene and Portland involve themselves in the investigatory process much earlier than we do. Sometimes I don't receive files to review until the end, or prior to the interview with IA. If I want to get independent information from the officers, it's pretty important that I have a full knowledge of the case before I go in there in order to ask correct questions because that's really our shot at that independent information, and I need to make better use of that.

The other thing we don't do, that every single agency we visited does, is that we are not involved in the classification of the incoming complaints. Currently classification is left to the PD, and the way they classify it dictates who reviews it or if anybody reviews it after the investigation is done. That's something if we were to stick with the current model I'd like to discuss this about the ordinance.

They all have a mechanism to ensure command staff review of complaints. If an officer received a low level complaint, it still went to the Sergeant, to see what was it about the incident between the Officer and the Citizen, and do some on-the-spot correction at the lowest level.

What's really important is the access to the Officer interview. Only Pierce Murphy in Boise could compel an Officer to speak. The Police Auditors in Seattle, Portland, and Eugene can't do it. In Eugene, in order to ask a question they have to write it down in advance, prior to the interview. They were impressed with our access to ask questions. That gives me pause about where do we want to go and what do we want to have and what do we want to give up in order to get there.

Luvimae Omana: The OPA Auditor in Seattle is tasked with auditing OPA's work. She has unfettered access. She said it's important to note that's what the statute says, but it's subject to what IA is willing to give her. All she can do is ask, but in practice that means what IA gives her.

For comparison: data, Spokane's population is 210K, SPD has 307 commissioned Officers, OPO has 2 full time employees and 1 part-time. Our budget is less than 200K.

Eugene's population is 160K. They have about 150 Officers. Their Auditor's office is 3 full time positions: Auditor, Deputy Auditor, and Administrative person, and they're going to get a full time community outreach person. They have a budget of 459K.

Portland has a population of 610K, and 1150 Officers. IA has 24 officers, and the Office of Independent Police Review has 13 people, including investigators. Their budget is 1.5 million dollars.

Seattle has a population of 662K, and 1,300 Officers. The OPA Office is part of IA, and has a budget of 3.128 million.

For Boise, their population is 214K, they have 300 officers. According to Pierce Murphy, their budget is about 300K per year.

As far as process, with our office, we receive complaints, but so can IA. IA conducts those investigations and when they're done, they send them to our office for certification. They want to know if we think they are timely, thorough and objective. If they've decided it's an inquiry, and this goes to the classification of what Bart was talking about before, after we certify it, that's about it; nothing else happens. However if there's a finding, like a policy violation, it goes up the chain of command.

In Eugene, the Auditor said an important indicator of independence it reporting to a different body than the PD. The Police Chief reports to the Mayor, and the Auditor reports to the legislative body. He also gets to ask for his own budget. They are looking to transition to an Inspector General type office to broaden that oversight power. Currently they take all the

complaints against EPD. They can initiate investigations on their own. They have a Citizen's Review Board where citizens can choose the types of complaints that interest them.

In Portland, they take do complaint intake, and the investigator within IPR classifies the complaint. They can't compel Officers to speak with them but they have subpoena powers. They complete independent investigations. Something to me that seemed like a much better working relationship with the PD, is before the complaint can be certified, there has to be input from the PD and IPR, and once those 2 pieces are reconciled, a case is certified. In Spokane, they conduct their investigations. Once it's complete, we just get to certify it.

In Seattle, OPA is part of Seattle PD. We asked Pierce Murphy what is his dream; he wanted OPA to be the only oversight agency in Seattle, and be 100% civilian investigators.

In Boise, Officers are compelled to speak to the Ombudsman as a condition of their employment. Their appeal process is a desk review where the Ombudsman compares the investigation conducted by Internal Affairs to the complaint received, and they determine at that point whether there is cause to re-investigate.

Bart Logue added that the Auditor in Seattle has the authority by statute to not only to request, but require the PD to conduct an investigation.

Conklin thanked them both for really interesting reports.

Marty Huseman: our oversight trip was successful beyond my wildest dreams.

In Eugene, Mark Gissiner has had a volunteer Civilian Review Board for the last 6 years. He picks a case that he thinks will be interesting for the board, and they review it at their monthly meeting. He provides training for them monthly, and the police officers provide training on mental health. They have a program called CAHOOTS, which is a team that is scheduled for overnight shifts, made up of a paramedic and a mental health professional that go out on calls for service. They have a police escort when they go to situations where there are personal safety concerns. The city pays about 300K per year for this. Mark said it's made a tremendous difference in their community.

In Portland, the IPR Director Constantin has 11 citizen volunteers. They are not from any particular area, but are selected because of their community involvement. The amount of information they had available for the public at their front desk was impressive.

With Pierce Murphy in Seattle, they have the OPA Review Board that is a group of volunteer citizens. He said it's never really worked; it's been hugely ineffective to have volunteers doing the case review, and it's been polarizing. He said they can play a legitimate role after the case is done and be able to talk with the community about how effective, or not, the communication was to from the PD to the City. The City has taken away some of the Board's powers. Again, we will make sure that OPOC has a work product so we can share as much information as possible.

A follow up discussion took place about the oversight visit. Logue: my overall take of what I saw reinforced the things we're doing right. I kept waiting to find that gap, and it never came. I thought it was unique when no matter the size of the organization, people were struggling with the ability to talk with the Officer about what happened. We don't have to ask permission to ask a question, which is more than any of them had. Everyone talked about how we can get oversight to do whatever we want it to do, but you're going to have to bargain all of these things. That's where we found struggles with every visit.

I liked that they had investigators on call. None of them did a repeat investigation of an investigation that already existed. In Boise, Pierce would do an investigation of every complaint that came through him. IA did an investigation of every complaint that came through them, so there was no duplication, and that made a lot of sense to me. I think we can get the information earlier from IA.

A discussion took place on the hiring of Counsel for OPOC. Two attorneys have applied with the possibility of a 3rd. The date of May 24th was set up for interviews.

A discussion took place on the Ordinance. Conklin said there's a deep longing not just for independent investigations but an independent Ombudsperson, and a hiring process that the community can trust for hiring by civilians. Rose wants to hear more about the oversight visit before she starts thinking about what the Ordinance should look like. She's really torn about breaking away from IA. She said Bart kind of alluded that the other cities were jealous about that.

Conklin strongly encouraged Bart, Luvimae, and Marty to give OPOC a rough draft of their oversight visit in the next week or so.

Richter talked about making an avenue for the Interim to become Permanent without going through this ridiculous process; that's the biggest concern on the Ordinance. This would reduce the chance of having this position vacant.

There was consensus that Commissioners would contact City Council individually with their input on the Ordinance.

A discussion took place regarding a draft response to the complainant. Richter will make some edits and send it to Conklin, then if they are in agreement, she will send it out to everybody and people will give input to Marty. Richter will have it to Commissioner Conklin by the end of the week or earlier, so everyone can have comments to Marty by the end of next week. If Marty has heard from everybody, then the letter can go out.

A discussion took place about the Ombudsman hiring process. OPOC has a draft of the job announcement. The residency requirement was discussed, and the time necessary for response to a critical incident. Residency will result in a smaller pool. Conklin said this is another one where we can give our input to City Council, and all agreed.

A discussion took place about the fact that the contract with the Interim Ombudsman will expire at the beginning of June. VanderPol moved to offer a 4 month contract to Logue as Interim Ombudsman. Rose seconded. Motion passed unanimously. Logue accepted, and thanked the Commission.

A discussion took place about job expectations for the Interim Ombudsman. Conklin requested that Commissioners review the drafts and give feedback to Bart and Marty, and then this can be discussed further at the next meeting. Regarding community outreach, Richter said he thinks it's absolutely crucial to this position that community outreach engages the folks that nobody speaks for. There was general consensus that Logue uses his best judgment on how much time to spend currently on community outreach, given his workload.

Omana indicated that the agencies we visited were jealous that we have the access that we do in Spokane to IA investigations, and that we don't have to put questions in writing in advance. Richter said if you give the SPD a reason to make access difficult, they will do it. You have to have a combination of both; you can't circumvent IA. Conklin said that Marty, Luvimae and Bart should give feedback to City Council on what they learned during their visit.

Conklin invited the public to the upcoming Native Project Open House. Bart invited the Commissioners to come in to his office and have a discussion before they talk with City Council about amendments to the Ordinance.

Conklin declared the meeting adjourned at 7:51pm.

The next Regular Meeting is June 7, 2016.

Minutes submitted by Marty Huseman, and approved on August 2, 2016.

Dave Plemons

May 3, 2016

Spokane Police Ombudsman Commission

What is an independent Police Ombudsman? Few of us in the reform community believe the implementing ordinance of 2 years ago fulfilled the promise of Prop 1, 3 years ago. Last week I made this claim at the forum: "All three finalists for our vacant Ombudsman last year agreed the position as presently constituted is not independent." I was challenged with no opportunity to immediately respond. What are the facts? In August at the candidates' forum here in this venue, Commissioner Scott asked "What does real investigative authority look like?" Breeden responded that the office is "presently not truly independent." Huggins added that "monitoring is not independence." All three candidates concurred. So we today do not have yet the independent oversight we probably all desire. Nor is it

independence as the public desires. Even data compilation, analysis and reporting must depend on the information supplied by the Police Department. Where is the vaunted independence?

On the matter of proposed revisions to the implementing ordinance. Under definitions on page 3 we are told an investigation in which the ombudsman is involved “means an Internal Affairs (IA) investigation.” Note the identity of ombudsman work with police investigation. The complaint the IA together with the ombudsman investigate is serious and “could lead to suspension, demotion or discharge” of a police department employee. By this preliminary definition the ombudsman is involved in Internal Affairs work, potentially culminating in serious penalties. That’s involvement in discipline. That is the appropriate task of IA. But in the following 5 pages of section 04.32 the Ombudsman is specifically prohibited from involvement in any discipline or disciplinary action 20 times. Why so

much repetition? Why the obvious contradiction with the initial definition? Well, first the duties spelled out under the definitions entangles the ombudsman in labor practices and establishes the necessity for negotiation and police control of the ombudsman. Second the denial of disciplinary involvement minimizes ombudsman participation and subordinates the ombudsman to Internal Affairs and the Police Department. That is the way it was designed. We need to rewrite the implementing language to disentangle our civilian oversight from oversight by the overseen. We do seek independent eyes. Is there a difference in purposes with the Police Department? Yes. The ombudsman should be solely a fact finder. The ombudsman does not prescribe remedies. IA should continue to handle the maintenance of professional standards. These two intentions are distinct. Mixing them up is the source of our frustrations.

For the sake of transparency and improved public respect for the men in blue we must have an independent ombudsman. An ombudsman no longer entangled in internal police affairs. An ombudsman who serves as our oversight.